

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2014-203-E - ORDER NO. 2014-482

JUNE 10, 2014

IN RE:	Request of South Carolina Electric & Gas	)	ORDER APPROVING
	Company for Approval of Form Contract for	)	FORM CONTRACT
	Light Emitting Diode (LED) Lighting	)	
	Service	)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the request of South Carolina Electric & Gas Company (“SCE&G” or “the Company”) for approval of a form contract for installation and maintenance of light emitting diode (“LED”) street lights. The form contract would allow the Company to accommodate the increase in the number of requests for these street lights, and would allow service through Rate 9, an approved tariff. The form contract is being filed for approval under 10 S.C. Code Ann. Regs. 103-346 (Supp. 2013). The Office of Regulatory Staff has no objection to the request for approval.

We have examined the form contract, and we hereby approve it, since it clearly allows the Company to accomplish its goal of accommodating the requests for installation and maintenance of the LED street lights. The approved form contract is attached hereto as Order Exhibit No. 1.

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This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

  
G. O'Neal Hamilton, Chairman

ATTEST:

  
Nikiya Hall, Vice Chairman

(SEAL)

**LIGHT EMITTING DIODE (LED) LIGHTING AGREEMENT**  
**(Customer Name)**  
**(Customer Street Address)**  
**(Customer City, State, Zip)**

THIS AGREEMENT ("Agreement") is entered into and effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ ("Customer") and South Carolina Electric & Gas Company, ("Company"), a South Carolina corporation. Customer and Company may be referred to individually as "Party" or collectively as "Parties".

In consideration of the mutual covenants and agreements herein contained, the same to be well and truly kept and performed, the sums of money to be paid, and the services to be rendered, the Parties hereto covenant and agree with each other as follows, namely:

**ARTICLE I**

**LIGHTING SERVICE:** Company shall provide lighting service from dusk (one half (1/2) hour after sunset) to dawn (one half (1/2) hour before sunrise) each night during the Agreement period for a total of approximately four thousand (4000) hours of lighting per year. Customer agrees that lighting provided is ornamental in nature and is not designed for security or public safety. Company does not guarantee lighting level for security or public safety purposes. Customer agrees that lighting is not designed in accordance with the Illuminating Engineering Society (IES) recommended maintained luminance and illumination values for roadways and area lighting. Company shall also perform remote monitoring and diagnostic service for the LED fixtures and those charges are included in the facility fee.

**ARTICLE II**

**RATE AND MONTHLY FACILITY CHARGE:** Customer shall be billed an energy charge in accordance with Company's "General Service", Rate 9, attached hereto and incorporated herein by reference, which is currently \$\_\_\_\_\_ per kwh. The energy charge is calculated on an unmetered basis and estimated based on the manufacturer's specified input wattage. The Company reserves the right to meter one or more of the LED luminaires. Based on the above, Customer's monthly lighting energy charges shall be \$\_\_\_\_\_ per month plus a Basic Facilities Charge (BFC) of \$\_\_\_\_\_ per month. The energy charge and the BFC are subject to change upon periodic review and approval by the Public Service Commission of South Carolina (PSC), in the manner prescribed by law.

Fixture Type	Input Watts	Qty	Converted Kwh	Rate 9	Energy	BFC	Total Energy Charge (\$)
_____	_____	_____	_____	\$_____	\$_____	\$_____	\$_____

Customer will also be charged a monthly facility charge in accordance with Rate 9 in the amount of \_\_\_\_\_% of the total project cost per month as of the effective date of this Agreement. The Customer agrees to pay the Company a continuing monthly facility charge in the amount of \$\_\_\_\_\_ (\_\_\_\_\_% times \$\_\_\_\_\_). The monthly facility charge will not change during the term of the Agreement.

Customer's initial monthly lighting charges for this project will total \$ \_\_\_\_\_ plus S.C. sales tax and all other applicable fees.

Rate	Item	Total
9	Total Energy Charge	\$ _____
	Monthly Facility Charge	\$ _____
	Total Monthly Lighting Charges	\$ _____

Additionally, this Agreement and all services rendered hereunder are subject to Company's "General Terms and Conditions" as approved by the PSC as they may now exist or may be amended in the future. The "General Terms and Conditions" as they currently exist are made a part of this Agreement as attached.

### ARTICLE III

**Select option 1, option 2 or option 3 and/or option 4)**

AID-TO-CONSTRUCTION: Customer has requested and Company has agreed to install facilities. The installation cost does meet the 4 to 1 ratio and therefore no aid to construction is required for this project.

OR

AID-TO-CONSTRUCTION: Customer has requested and Company has agreed to install facilities. The installation cost requires an aid to construction in the amount of \$ \_\_\_\_\_ to be paid by Customer to Company prior to installation.

OR

AID-TO-CONSTRUCTION: Customer has requested and Company has agreed to install facilities. The installation cost requires an aid to construction in the amount of \$ \_\_\_\_\_ to be paid by Customer to Company prior to installation. This contribution includes the cost to purchase non-standard equipment and a onetime fee for lifetime use of receptacles.

OR

***The following sentence can be added to any of the three (3) options above as applicable.***

CONDUIT: Customer agrees to provide and install all two (2) inch schedule 40 gray electrical PVC lighting conduit to Company specification. Company shall assume no responsibility for repairs to or replacement of damaged conduit.

### ARTICLE IV

INSTALLATION AND MAINTENANCE: Customer is responsible for locating and marking all facilities (irrigation, water, sewer, drainage, etc.) in areas where digging will take place if not part of the Palmetto Utility Protection Service (PUPS). Company is not responsible for any damage to Customer owned utilities such as irrigation, sewer, cable, water taps, etc. that have not been located or have been mis-located. Customer is responsible for obtaining all applicable authorizations and permissions from any governmental entities related to luminaires, poles, and/or related equipment. Customer is also responsible for compliance with, and informing Company of, any governmental ordinances as they may relate to lighting. Customer is responsible for and will pay to Company any and all costs associated with the removal, relocation or exchange or



luminaires, poles and/or related equipment that are determined to be non-compliant by governmental entities. Company agrees to install underground wiring and appurtenances for \_\_\_\_\_ ( ) \_\_\_\_\_ luminaires mounted on \_\_\_\_\_ ( ) \_\_\_\_\_ poles. Company also agrees to install a control (node) on each LED luminaire to provide photocontrol, remote monitoring and diagnostics for this lighting project. This lighting installation will be located at \_\_\_\_\_, South Carolina. The delivery voltage to these fixtures shall be 120v. At all times, Company will maintain ownership of LED luminaires and poles. The Customer must notify the Company of any non-functioning or mal-functioning lights. Company will not be responsible for any landscape or pavement replacement that may be necessary as a result of the Company installing and/or performing maintenance on the lighting facility. Customer will maintain a reasonable working distance around LED luminaires and poles.

\_\_\_\_\_  
Customer Initial/Date

## ARTICLE V

**REPLACEMENT AND MAINTENANCE:** Company shall perform all ordinary replacement and maintenance due to normal wear and tear on the equipment and appurtenances. This shall include the replacement of conductor and electrical connections. Non-standard equipment replacement may be delayed until such equipment can be ordered and delivered to Company. Company shall retain ownership of poles located on Customer's premises.

In the event of accidental damage or vandalism, Company shall bill Customer and hold Customer responsible for all extraordinary replacement and maintenance work that is not recovered by Company from third parties tortfeasors.

If Customer elects, for any reason, to require removal or relocation of Company facilities, Customer is required to reimburse Company for all costs incurred by Company as a result of such removal or relocation. If action is taken by a governmental entity that requires the removal or relocation of Company's facilities, Customer is required to reimburse Company for all costs incurred by Company as a result of such removal or relocation.

## ARTICLE VI

**TERM:** This Agreement shall continue for the full initial term of fifteen (15) years and continues thereafter from year to year until terminated by at least thirty (30) days prior written notice by either Party to the other of its intention to terminate.

## ARTICLE VII

**TERMINATION FOR DEFAULT BY CUSTOMER:** The occurrence of any one or more of the following events by Customer shall constitute a default by Customer: 1) bankruptcy; 2) non-payment; 3) dissolution of business entity; 4) discontinuation of access; or 5) unauthorized modification of equipment. In the event of default, Company reserves the right to terminate this Agreement. Should Customer terminate prior to the end of the initial term of this Agreement, an early termination charge outlined in Article VIII shall apply.

## ARTICLE VIII

**EARLY TERMINATION CHARGE:** Should Customer terminate this Agreement for any reason, either during the initial term or any extension thereof, unless waived as provided for herein, Customer shall pay to Company a termination charge excluding fuel for the remainder of the contract term; plus the sum of the original cost of the installed equipment, less accumulated depreciation through the effective termination date, plus removal and disposal costs, plus

environmental remediation costs, less any applicable salvage values, the total cost of which shall not be less than zero. Company may waive a portion or all of the termination charge where (1) a successor agreement is executed prior to termination of this Agreement, (2) Customer is able to furnish Company with satisfactory evidence that a successor customer will occupy the premises within a reasonable time and contract for substantially the same service facilities, or (3) the facilities for serving have been fully depreciated.

#### **ARTICLE IX**

**LIMITATION OF LIABILITY:** THE PARTIES AGREE, AS AN ESSENTIAL CONDITION OF THIS AGREEMENT, THAT COMPANY SHALL HAVE NO LIABILITY TO CUSTOMER OR TO ANY THIRD PARTY AS A RESULT OF THE SERVICES PROVIDED HEREUNDER OR COMPANY'S INSTALLATION, OPERATION, MAINTENANCE, OR REMOVAL OF THE LUMINAIRES, POLES, CONDUCTORS OR OTHER APPURTENANCES ASSOCIATED WITH THE LIGHTING FACILITIES EXCEPT TO THE EXTENT OF COMPANY'S NEGLIGENCE. CUSTOMER AGREES TO INDEMNIFY COMPANY IN THE EVENT THAT A THIRD PARTY SHOULD BRING A CLAIM AGAINST COMPANY ARISING OUT OF THE SERVICES PROVIDED HEREUNDER OR COMPANY'S INSTALLATION, OPERATION, MAINTENANCE, OR REMOVAL OF THE LUMINAIRES, POLES, CONDUCTORS OR OTHER APPURTENANCES ASSOCIATED WITH THE LIGHTING FACILITIES REGARDLESS OF THE FAULT OR NEGLIGENCE OF COMPANY.

IN NO EVENT WILL COMPANY BE LIABLE FOR INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES. THE LIABILITY OF COMPANY SHALL IN NO EVENT EXCEED THE AMOUNT PAID BY CUSTOMER TO COMPANY DURING THE TWELVE MONTHS PRECEDING THE EVENT WHICH GIVES RISE TO THE UNDERLYING CLAIM.

#### **ARTICLE X**

**WARRANTIES:** COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY TYPE, EXPRESS OR IMPLIED, EXCEPT AS SPECIFICALLY STATED IN THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, COMPANY EXPLICITLY DISCLAIMS ANY WARRANTY REGARDING THE SERVICES PROVIDED HEREUNDER OR COMPANY'S INSTALLATION, OPERATION, MAINTENANCE, OR REMOVAL OF THE LUMINAIRES, POLES, CONDUCTORS OR OTHER APPURTENANCES ASSOCIATED WITH THE LIGHTING FACILITIES REGARDING THE SUITABILITY, PRACTICALITY, VIABILITY, OR FUNCTIONALITY OF THE PRODUCTS AND SERVICES PROVIDED HEREUNDER, EXCEPT AS SPECIFICALLY STATED HEREIN. COMPANY SPECIFICALLY DOES NOT WARRANT THAT THE PRODUCTS OR SERVICES WILL INCREASE SAFETY OR REDUCE THE POSSIBILITY OF CRIMINAL ACTIVITY. THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE SPECIFICALLY DISCLAIMED.

#### **ARTICLE XI**

**RIGHT OF WAY:** Customer hereby grants Company free access and right of way to maintain install and remove any and all luminaires, poles, conductors and other appurtenances associated with the lighting facilities contained within this Agreement.

#### **ARTICLE XII**



**CUSTOMER MODIFICATIONS:** No modifications to luminaires, poles or related equipment may be made by Customer without prior written approval from Company. Company assumes no liability if luminaires, poles or related equipment are modified in any manner by Customer.

#### **ARTICLE XIII**

**ASSIGNMENT:** No assignment of this Agreement, in whole or in part by Customer, will be made without the prior written consent of Company (and shall not relieve the assigning Party from liability hereunder), which consent will not be unreasonably withheld or delayed.

#### **ARTICLE XIV**

**AMENDMENT:** This Agreement may not be amended except by written agreement signed by an authorized representative of each Party.

#### **ARTICLE XV**

**REPRESENTATION:** Each Party to the Agreement represents and warrants that it has full and complete authority to enter into and perform its respective obligations under this Agreement. Any person who executes this Agreement on behalf of either Party represents and warrants that he or she has full and complete authority to do so and that such represented Party shall be bound thereby.

#### **ARTICLE XVI**

**COVENANTS:** This Agreement is an entire contract, each stipulation thereto being a part of the consideration for every other, and the terms, covenants, and conditions thereof inure to the benefit of and bind the successors and assigns of each of the Parties hereto, as well as the Parties themselves.

#### **ARTICLE XVII**

**ENTIRE UNDERSTANDING:** This Agreement contains the entire understanding of the Parties and supersedes all prior oral or written representation(s) concerning the subject matter hereof.

#### **ARTICLE XVIII**

**NON-STANDARD EQUIPMENT:** These luminaires and/or poles are considered non-standard (non-stock) equipment, and Customer accepts that replacements will not be readily available (six weeks typical delivery time) and may not be exact duplicates of originals.

**(Customer Name)**

By: \_\_\_\_\_

(Print Name): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**SOUTH CAROLINA ELECTRIC & GAS COMPANY**

By: \_\_\_\_\_

(Print Name): Daniel F. Kassis

Title: Vice President, SCE&G Customer Relations and  
Renewables

Date: \_\_\_\_\_

Contract No.